

ZONING BOARD OF APPEALS
January 26, 2016
PUBLIC HEARING

Charles Marino called the special meeting to order at 6:00 P.M. with the following in attendance:

Charles Marino, Chair
Arlene Schwartz-Regan, Vice-Chair
Basiliza MacCalmon, Secretary
Edward Rachuba
David Cronin, alternate

Sue Goggin, ZEO
Lori Rotella, Assistant ZEO
Public - 3

1. Charles Marino took attendance and noted there was a quorum. Dave Cronin was made a regular voting member.
2. Approval of previous minutes and secretary will sign the minute book.

VOTED: Unanimously on a motion by Edward Rachuba and seconded by Basiliza MacCalmon to **ACCEPT** the September 1, 2015 and October 27, 2015 meeting minutes as written.

3. **6:00 P.M. PUBLIC HEARING APPEAL #1978** – Applicant will seek a variance of section 24.1, Schedule B, 5.3 of the Naugatuck Zoning Regulations for a pool at 191 Crestwood Drive, Applicant: Wilfredo & Esmaelen Mercado.

Charles Marino read the legal notice into the record. Basiliza MacCalmon read appeal #1978 into the record.

Wilfredo Mercado, 191 Crestwood Drive explained to the commission that he cannot put the pool in the backyard due to the drop off and ledge there. He also explained what else was in the backyard and where everything was located. The pool is from Namco. Esmaelen Mercado, 191 Crestwood Drive informed the commissioners that they still own property past where their fence is on the side of the house where they would like to put the pool. The current fence is older and in need of repair and is approximately 4 – 5 feet in height. Wilfredo explained that the neighbor's house is approximately 30 feet from the pool. They have never had any problems with the neighbors. Susan Giasullo, 199 Crestwood Drive, conveyed to the commission that her bedroom window is right above the area of where the pool will be located. She has a concern with her privacy and noise. She goes to work early in the morning and therefore goes to bed early. When she gets home from work she likes to rest. She feels the pool is going to be an eyesore due to the size and stated she feels there is enough room in the back of the house for the pool. Ray Giasullo, 199 Crestwood Drive, also feels there is no privacy. The current fence is only 4 – 5 feet high. It is a very large pool and feels the Mercado's can dig up their fire pit and put a smaller pool in that location. Susan also mentioned that she does not want any trouble with the neighbors. The commissioners discussed possibly putting the pool in the back but there is a steep drop there. The property line is 227' to the rear which butts up to a housing complex in Waterbury. That would not be an

option to put the pool down past the ledge. Mr. Mercado stated, if the pool was down past the drop he would not have any control as to who is getting in the pool. Susan Giasullo ask about putting the pool on the other side of the house. Mr. Mercado explained that he built a swing set on that side and also the well is located over there. He went over the map he submitted with his application with the commissioners showing them exactly where everything is located on his property. The commissioners felt it was best for them to go back out to the property and take a second look. The neighbors and the Mercado's agreed.

Tabled until the February 23, 2016 meeting at 6:00 P.M.

4. **6:15 P.M. PUBLIC HEARING APPEAL #1979** - Applicant will seek a variance of section 24.4.10 of the Naugatuck Zoning Regulations for a fence at 64 Church Street, Applicant: LEMI, LLC

Basiliza read appeal #1979 into the record. Charles confirmed the certified mailings were sent for appeal # 1978 and #1979.

John Migliore, 557 Long Hill Avenue, Shelton owns LEMI, 66 Church Street the former Carrie Welton's. John explained that he had a slab poured in the back of the building. His application stated he was seeking a variance for a 10 foot fence but then decided he would be reducing the fence down to 8 feet high. He is looking to install a fence for security reasons and to reduce any noise for the neighbors. He stated that a 6 foot fence is O.K. but an 8 foot fence would be better. He explained that people are putting their trash in his dumpsters. He owns the whole building which consists of 64, 66, 68 and 72 Church Street. The commission asked John if he was looking for a variance for a fence and a roof. John expressed this variance was only for the fence. Maybe in the future he would come back for a pergola or possibly a patio permit. Susan also explained that John would have to submit a site plan for patio dining. The fence would be located on the slab with an emergency gate to exit only, not to enter into the area. For safety purposes he has an extra bouncer at the back door on the weekends. You cannot lock the back door while open for business due to safety reasons.

Attorney Robert Kolesnik Sr, 49 Levenworth Street, Waterbury representing Geraldine Sileo, owner of the property located at 30 Church Street which abuts the applicant's property to the south and rear. Attorney Kolesnik handed packages to each of the commissioners containing maps with notes, the original copy of application, photographs, accessor's cards and a copy of the Naugatuck Zoning Regulations. The original was put into the record as an exhibit. He explained the application for the variance was initially for a 10' fence and roof. It was then changed to an 8' fence and no roof. The applicant initialed the changes on the application. Once the application has been noticed in the paper, you cannot make changes without resubmitting a new application. The Attorney went through the application and stated his reasons why the commission cannot grant a variance. You need to prove a legal hardship. He believes the slab and fence are leading towards becoming a room in the future. He also explained that there was no site plan on file. The applicant only received a Certificate of Zoning Compliance. He believes the applicant should have received a permit for the slab with what he believes is plumbing located in the slab. He also believes the slab will be used as a

foundation due to the footings in the slab. He reiterated that the applicant has a permit for a 6' fence. The attorney believed that the applicant's property which is in a business zone was abutting residential property, which would need an additional 25' setback. He noted the patio is illegal since there was no 25' setback. He stated, several times, he believes the patio will be used for smoking cigars and drinking. He also stated there was no site plan or A-2 survey on file. The doorway in the fence will lead out to a 10' wide easement. This easement is not allowed for business access onto the easement. You cannot let your patrons go in or out of the back, even for emergencies. Attorney Kolesnik explained in detail variances and when you are allowed to grant a variance. The attorney was asked by the commission why they are against this. The attorney stated: 1. the mess the applicant has in the back 2. he has grease traps in the alley 3. he parks vehicles in the alley and 4. he cannot expand the bar. He believes the applicant is not a respectable property owner. There were newspaper articles stating the applicant plans to expand the bar. He stated the applicant bought the bar and cannot expand out. The rolling dumpsters are wrecking the asphalt. John Migliore stated there are no footings in the patio. The sweeps are for possible soda or beer lines in the future, not plumbing. He explained the mess was due to being under construction for the last 8 months. John stated that what the newspaper articles are referring to is his expansion within the building. He also stated that he has pulled permits and had inspections on the work already done. There will be no roof, maybe a pergola in the future to put lights on. The commission asked if he planned to have bands out back on the patio. John said no. Susan Goggin explained that the regulations do not call for a site plan to be submitted for just a patio. You need a site plan if he were to have outdoor seating in the back. John feels that his business has created 30 new jobs and increased the property values of his neighbors. Susan pointed out that the packets the attorney passed out to the commissioners have some wrong information. The field cards do not have the correct zone referenced on them. She has notified the accessor's office in the past about this. All of the surrounding properties are located in a B-1 zone. There is no residential zone in that area. Attorney Kolesnik said he did not realize the six houses in the back were located in a business zone. He submitted for the record pictures from January 24, 2016 showing grease containers in the alley way. He sent John a letter a couple of months ago to remove the containers. John explained that Geraldine agreed to rent the alley way and back lot to John but would not sign any paperwork stating this agreement. John also mentioned that the blocks are taking away any access by an ambulance or fire truck. He is also looking to put his garbage containers on another site. Attorney Kolesnik stated his client cannot have a respectable tenant rent from her due to the mess. Charles Marino tabled the meeting until February 23, 2016 at 6:15 P.M. He told the applicant he will have to submit a new plan with just the fence on it. There will be no fee to resubmit the plan. Susan will consult with Attorney Fitzpatrick to find out if we need to run a new legal ad.

Tabled until the February 23, 2016 meeting at 6:15 P.M.

5. **6:39 P.M. PUBLIC HEARING APPEAL #1980** – Applicant will seek a variance of section 23.1, Schedule A, Part C for outdoor seating of the Naugatuck Zoning Regulations, Applicant: Naugatuck Train Station, LLC

Basiliza MacCalmon read appeal #1980 into the record. Charles Marino confirmed the certified mailings were sent.

Michael McVerry, 25 Porter Avenue, Naugatuck on behalf of the applicant, Naugatuck Train Station, LLC explained to the commission that the applicant signed a contract to purchase the train station with the Borough of Naugatuck with the intent to put a restaurant into the location. Attorney McVerry passed out a portion of the sales contract to the commissioners and directed them to page 4, deed restrictions, paragraph 12 – sale contingent on proper land use approvals to allow for outside patio. This was submitted into the record. He further explained that the property was recently rezoned from I-1 & I-2 to B-1. The applicant is seeking a variance for an additional 6 outdoor seats to what is currently allowed through the regulations. The building is on 2.3 acres of land and the building is 4,500 square feet. You cannot put any outdoor dining in the rear of the property due to the railroad tracks. The attorney also explained that they will still need to get zoning approval for the outside dining patio. There will only be structural changes to the inside of the building to accommodate a restaurant, none to the exterior of the building. The backdoor of the building will be an emergency exit only.

VOTED: Unanimously on a motion by Edward Rachuba and seconded by David Cronin to **GRANT Appeal #1980** for variance to Section 23.1, Schedule A, Part C for outdoor seating of the Naugatuck Zoning Regulations.

6. There were no additional items added to the agenda.
7. **VOTED:** Unanimously on a motion by Edward Rachuba and seconded by Arlene Schwartz-Regan to **ADJOURN** the meeting at 7:51 P.M.

RESPECTFULLY SUBMITTED:

Basiliza MacCalmon, Secretary/Ir